



Billing Code 4333–15

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R1–ES–2018–N077; FXES11140100000–189–FF01E00000]

**Request for Renewal of the Incidental Take Permit and Habitat Conservation Plan
for Incidental Take of Hawaiian Stilts; Cyanotech Aquaculture Facility, Hawaii**

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), have received an application from Cyanotech (applicant) for a renewal of an incidental take permit (ITP) under the Endangered Species Act. The applicant is requesting renewal of their ITP and their 2002 habitat conservation plan (HCP) for Hawaiian stilt at the Cyanotech aquaculture facility at Keahole Point, Hawaii. If renewed, the ITP would authorize the take of the Hawaiian stilt that may occur incidental to the operation and maintenance of the aquaculture facility. The ITP application includes a HCP renewal document describing the actions and measures the applicant will implement to avoid, minimize, mitigate, and monitor incidental take of the species. We are making the HCP renewal and the NEPA environmental action statement for categorical exclusion, available for public review and comment.

DATES: To ensure consideration, please send your written comments by **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

ADDRESSES: To request further information or submit written comments, please use one of the following methods, and note that your information request or comments are in reference to the Cyanotech HCP and the proposed renewal of the ITP:

- *Internet:* Documents may be viewed on the internet at <http://www.fws.gov/pacificislands/>.
- *Email:* pifwo_admin@fws.gov. Include “Cyanotech HCP” in the subject line of the message.
- *U.S. Mail:* Field Supervisor, U.S. Fish and Wildlife Service, Pacific Islands Fish and Wildlife Office, 300 Ala Moana Boulevard, Room 3–122, Honolulu, HI 96850.
- *Fax:* 808–792–9581, Attn: Field Supervisor. Include “Cyanotech HCP” in the subject line of the message.
- *In-Person Drop-off, Viewing, or Pickup:* Comments and materials received will be available for public inspection, by appointment, during normal business hours at the Pacific Islands Fish and Wildlife Office (address above). Written comments can be dropped off during regular business hours on or before the closing date of the public comment period (see **DATES**).

FOR FURTHER INFORMATION CONTACT: Jodi Charrier, Endangered Species Biologist, by mail at the address in **ADDRESSES**; by telephone at 808–792–9400; or by email at pifwo_admin@fws.gov. If you use a telecommunications device for the deaf, please call the Federal Relay Service at 800–877–8339.

SUPPLEMENTARY INFORMATION: The Service has received an ITP application from Cyanotech in accordance with the requirements of the Endangered Species Act (ESA; 16 U.S.C. 1531 *et seq.*). The applicant is requesting renewal of an ITP to

authorize incidental take of the endangered Hawaiian stilt (*Himantopus mexicanus knudseni*), hereafter referred to as the covered species or Hawaiian stilt. If renewed, the ITP would authorize take of the covered species that may occur incidental to the operation and maintenance of the Cyanotech aquaculture facility for an additional 19 years, until 2035. The ITP application includes a HCP renewal document describing the actions and measures the applicant will implement to avoid, minimize, mitigate, and monitor incidental take of the covered species. We are making the ITP application, including the NEPA environmental action statement for a categorical exclusion available for public review and comment.

Background

Section 9 of the ESA prohibits the take of fish and wildlife species listed as endangered or threatened under section 4 of the ESA. Under the ESA, the term “take” means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct (16 U.S.C. 1532(19)). The term “harm,” as defined in our regulations, includes significant habitat modification or degradation that results in death or injury to listed species by significantly impairing essential behavioral patterns, including breeding, feeding, or sheltering (50 CFR 17.3).

However, under specified circumstances, the Service may issue permits that authorize take of federally listed species, provided the take is incidental to, but not the purpose of, an otherwise lawful activity. Regulations governing permits for endangered and threatened species are at 50 CFR 17.22 and 17.32, respectively. Section 10(a)(1)(B) of the ESA contains provisions for issuing such incidental take permits to non-Federal

entities for the take of endangered and threatened species, provided the following criteria are met:

- (1) The taking will be incidental;
- (2) The applicant will prepare a conservation plan that, to the maximum extent practicable, identifies the steps the applicant will take to minimize and mitigate the impact of such taking;
- (3) The applicant will ensure that adequate funding for the plan will be provided;
- (4) The taking will not appreciably reduce the likelihood of the survival and recovery of the species in the wild; and
- (5) The applicant will carry out any other measures that the Service may require as being necessary or appropriate for the purposes of the plan.

Proposed Action

The Service proposes to issue the requested ITP based on the applicant's commitment to implement the renewed 2002 HCP for Hawaiian stilt at the Cyanotech aquaculture facility, Keahole Point, Hawaii. On March 18, 2002, the Service approved Cyanotech's HCP and issued an ITP with a duration of 3 years for take of the endangered Hawaiian stilt incidental to ongoing operations and maintenance activities of the aquaculture facility. In September 2006, the Service permitted a 10-year extension of the ITP, which expired in March 2016. The 2006 ITP authorizes take of the covered species so long as the total number of stilts fledged at off-site locations is greater than the number of stilts incidentally taken over the ten-year permit term. In October 2015, Cyanotech submitted an application for renewal of the ITP and the HCP for an additional 19 years, until 2035. This request is being considered pursuant to section 10(a)(1)(B) of the ESA.

Cyanotech proposes to continue normal microalgae operations, daily monitoring and maintenance at its aquaculture facility, and implementation of minimization measures described in their 2002 HCP and 2006 HCP amendment until 2035. All provisions for reporting, monitoring, adaptive management, and funding assurances from the original HCP will be maintained. Cyanotech currently has a net mitigation offset of 32 fledglings, and incidental take is not expected to exceed 1 stilt fledgling per year. Therefore, it is expected that the current offset of 32 fledglings is sufficient to compensate for take of an additional 20 Hawaiian stilt fledglings over the 19-year permit renewal term. No additional compensatory mitigation is being proposed.

National Environmental Policy Act Compliance

The proposed issuance of an ITP is a Federal action that triggers the need for compliance with NEPA (42 U.S.C. 4321 *et seq*). Pursuant to NEPA, we prepared an Environmental Action Statement (EAS) to analyze the environmental impacts of the proposed Federal action of issuing the requested ITP and implementation of the conservation program under the HCP.

Based on the EAS, we have preliminarily determined that the proposed renewal of the ITP and HCP would have minor or negligible effects on the species covered in the HCP. Therefore, we determined that the proposed HCP permit renewal qualifies for a categorical exclusion under NEPA, as provided by the Department of the Interior NEPA regulations (43 CFR part 46).

Public Availability of Comments

All comments and materials we receive become part of the public record associated with this action. Before including your address, phone number, email address,

or other personally identifiable information in your comments, you should be aware that your entire comment—including your personally identifiable information—may be made publicly available at any time. While you can ask us in your comment to withhold your personally identifiable information from public review, we cannot guarantee that we will be able to do so. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public disclosure in their entirety. Comments and materials we receive, as well as supporting documentation, will be available for public inspection by appointment, during normal business hours, at our Pacific Islands Field Office (see **ADDRESSES**).

Authority

We provide this notice in accordance with the requirements of section 10(c) of the ESA and its implementing regulations (50 CFR 17.22 and 17.32) and NEPA and its implementing regulations (40 CFR 1506.6).

Katherine B. Hollar,

Acting Deputy Regional Director,

Pacific Region, U.S. Fish and Wildlife Service

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